

Staff Summary Report



Hearing Officer Hearing Date: September 18, 2007

Agenda Item Number: 3

SUBJECT: This is a public hearing for a request by **BILL'S GHOST AND SPIRITS (PL070261)** located at 1344 West Broadway for one (1) use permit.

DOCUMENT NAME: 20070918dsdk01

PLANNED DEVELOPMENT (0406)

SUPPORTING DOCS: Yes

COMMENTS: Hold a public hearing for **BILL'S GHOST AND SPIRITS (PL070261)** (Scott Nye/GBMA Architecture LLC, applicant; Rosemead and Longden LLC, property owner) located at 1344 West Broadway Road in the CSS, Commercial Shopping and Services District for:

ZUP07127 Use permit to allow a convenience store with gas/fuel sales.

PREPARED BY: Diana Kaminski, Senior Planner (480-858-2391)

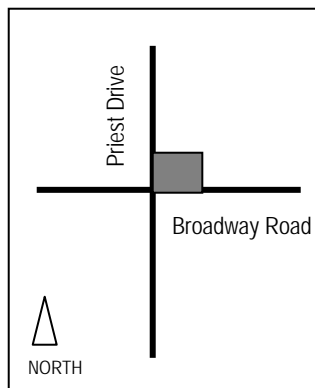
REVIEWED BY: Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359) *SEA*

LEGAL REVIEW BY: N/A

FISCAL NOTE: N/A

RECOMMENDATION: Staff – Approval subject to Conditions (1-10)

ADDITIONAL INFO: The applicant, Bill's Ghost and Spirits is requesting a use permit to allow a convenience store with gas/fuel sales. To date, staff has received no public input. Staff is recommending approval of the request.



PAGES:

1. List of Attachments
- 2-3. Comments; Reason for Approval
3. Reasons for Approval; Conditions of Approval
4. History & Facts/Description / Zoning & Development Code Reference

ATTACHMENTS:

1. Location Map(s)
2. Aerial Photo(s)
- 3-6. Letter of Intent
7. Site plan
8. Floor plan
9. Elevations
10. Landscape plan
- 11-13. Photograph(s)

COMMENTS:

The applicant is requesting a use permit to operate a convenience store with fuel sales. The property has a previous address of record: 1350 W. Broadway Road, the same address with which the business Bill's Ghost and Spirits has its Class 10 State Liquor License. The site is currently addressed as 1344 W. Broadway Road. The existing facility is 1,762 square feet, including 2 automotive service bays which have not been in operation for approximately ten years and 1,140 square feet of fuel pump canopies. The existing (remaining) use is the fuel sales, with approximately 124 square feet of convenience retail sales.

The proposed use would convert the existing automotive service bays and ancillary space to a full convenience store, with an additional 435 square foot cooler addition, bringing the building up to 2,197 square feet. The applicant has indicated this new use would operate 24 hours a day, 7 days a week. The proposed use includes a Class 10 liquor license, allowing the sale of wine and beer, no spirituous alcohol. Although the size of the convenience store is significantly larger than the existing retail sales, the building size is not out of scale for the site and is similar to nearby convenience uses. Two staff would be available on site at all times. No business plan or additional details of the operations were provided by the applicant.

Use Permit

The Zoning and Development Code requires use permits be granted only if the use covered by the permit, the manner of its conduct and any building which is involved, will not be detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood or to the public welfare in general, and that the use will be in full conformity to any conditions, requirements or standards prescribed by the Zoning and Development Code. Further, in arriving at the above determination, this use permit request meets all applicable tests:

- a. Any significant increase in vehicular or pedestrian traffic;
The existing fuel sales has 124 s.f. of convenience store sales, with the remainder of the 1,762 s.f. facility being support uses and an auto mechanic/service shop that is not in use. The existing fuel and convenience use operates 24 hours a day, 7 days a week. The proposed renovations would convert the remainder of the facility to convenience store, with existing support uses (office, restroom and storage) and an additional 435 square feet for cooler space serving the convenience store. The hours of operation would be the same as the existing fuel sales use. It is not clear if there would be an increase in vehicular or pedestrian traffic resulting from the 75% increase in convenience store area indicated by the applicant. Staff requested information on the projected customer traffic, however no additional information was provided. As noted by the applicant, the site has been underutilized since the closure of the auto service bays. Based on the size and location of the lot, size of the building and the required parking, and similar nearby uses, it is anticipated that there would not be abnormally high traffic generated by this use.
- b. Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat, or glare at a level exceeding that of ambient conditions;
The removal of the automotive service use from this site should reduce the potential for nuisances arising from odor, dust, gas, noise, vibration and smoke. The proposed convenience store use is not anticipated to generate any nuisances exceeding that of the surrounding conditions and uses.
- c. Contribution to the deterioration of the neighborhood or to the downgrading of property values which is in conflict with the goals, objectives or policies for rehabilitation, redevelopment or conservation as set forth in the City's adopted plans, or General Plan;
The existing and proposed use is in conformance with the General Plan land use and Zoning map. The area is not designated as a redevelopment area. The renovation of the service station will provide convenient store amenities within walking distance of the apartments and infuse new economic vitality to this corner. The property is being upgraded, contributing to the revitalization of the area by upgrading the elevations and adding a landscape tree buffer behind the building, as a screen to the residences to the east of this site.
- d. Compatibility with existing surrounding structures and uses;

The proposed new convenience store use is compatible with surrounding structures and uses.

- e. Adequate control of disruptive behavior both inside and outside the premises, which may create a nuisance to the surrounding area or general public.

The applicant will be required to provide a security plan. Two staff will be on site 24 hours a day.

Conclusion

The requested use permit for a convenience store with gas/fuel sales is in conformance with the tests for a use permit.

Staff recommends approval of the requested use permit.

REASON(S) FOR APPROVAL:

The proposed convenience store with fuel sales:

1. does not cause nuisances arising from the emission of odor, dust, gas, noise, vibration, smoke, heat, or glare at a level exceeding that of ambient conditions;
2. does not contribute to the deterioration of the neighborhood or surrounding area;
3. is compatible with the General Plan and Zoning and Development Code; and
4. is compatible with the surrounding area and uses.

SHOULD THE HEARING OFFICER ELECT TO TAKE AFFIRMATIVE ACTION ON THE REQUEST, THE FOLLOWING CONDITIONS OF APPROVAL SHOULD APPLY.

CONDITION(S) OF APPROVAL:

1. A security plan must be approved and implemented by the Tempe Police Department prior to operation of the convenience store.
2. All business signs shall have required sign permits obtained prior to installation.
3. The use permit is valid for the plans as submitted to and approved by the Hearing Officer.
4. This use permit is not transferable. Should the business be sold, the new owners must process through the Hearing Officer for a new use permit.
5. If there are any complaints arising from the use permit that are verified by a consensus of the complaining party and the City Attorney's office, the use permit will be reviewed by city staff to determine the need for a public hearing to re-evaluate the appropriateness of the use permit.
6. All permits and clearances required by the Building Safety Division shall be obtained prior to the use permit becoming effective.
7. Any intensification or expansion of this use shall require that a new use permit be applied for and obtained.
8. The rear exit door shall have a 6" x 6" lexan vision centered at 63" above finish floor (a.f.f.)
9. This project, including site plan, elevations and landscape plan shall be reviewed and approved for Development Plan Review prior to the use permit becoming effective.

10. All dead and missing plant material shall be replaced and required landscaping shall be installed prior to operation of the convenience store.

HISTORY & FACTS:

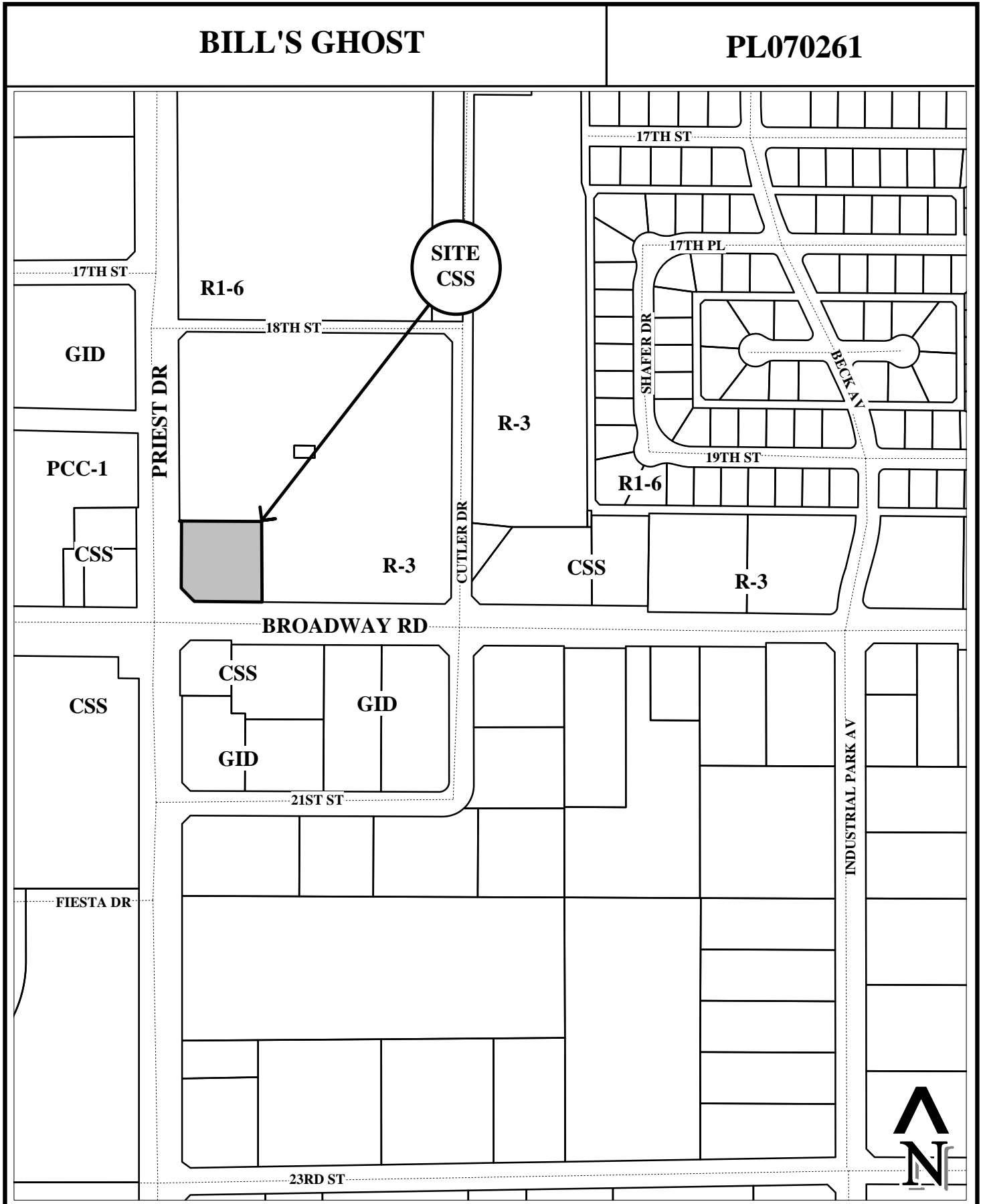
May 1968	Humble Service Station is in operation on C-2 zoned property.
	Sign Approval required street trees to be added to the site.
July 27, 1988	Board of Adjustment approval for a service station with future expansions requiring re-approval by the Board of Adjustment.
November 15, 1989	New 5- bay station with 12 required parking spaces proposed.
May, 3, 1990	Proposed project cancelled
1997	Existing 2-bay facility stopped operation as an automotive service station approximately ten years ago and continues operation as a fuel/gas station.

DESCRIPTION:

Owner – Rosemead and Longden LLC
Applicant – Scott Nye/GBMA Architecture LLC
Existing Zoning – CSS, Commercial Shopping and Services District

**ZONING AND
DEVELOPMENT
CODE REFERENCE:**

Section 6-308 Use Permits





BILL'S GHOST (PL070261)

Letter of Explanation- Use Permit

This use permit request is for the facility located at 1344 W. Broadway Road, on the north-east corner of Priest and Broadway. This facility is currently is a 1,762 square foot convenience and auto repair facility with two 1,140 square foot fuel sales canopies. This project proposes to remove the auto repair use from this facility and expand the convenience use, keeping the fuel sales use as well. The finished product will be an upscale convenience mart with an industrial market feel which sells upscale conveniences. A 435 square foot building addition will be added to the rear of the existing building in order to accommodate for a pre-fabricated walk-in cooler.

This facility will be open for sales 24 hours a day, seven days a week and will need only two employees to operate. The existing facility is currently in operation 24 hours a day, selling fuel and conveniences. Since the site currently draws a good amount of traffic due to fuel sales, there will only be a small increase in the amount of customers due to the proposed remodel/building addition. The surrounding area will also not be significantly affected because the facility is currently in operation.

The proposed remodel/building addition will also not cause any significant vehicular or pedestrian traffic in adjacent areas. As stated previously, this facility is currently in operation and draws customers regardless of the proposed project. This project proposes only to renovate the existing building which will not greatly change the amount of traffic on the site. Also, this facility does not increase traffic because this facility is not a destination location. As is the case with all gas stations, this facility captures existing traffic flows and relies on normal daily traffic cycles. Gas stations don't influence much less dictate, normal traffic cycles.

The proposed project will not cause any nuisance exceeding that of ambient conditions. The proposed project will not significantly increase traffic, light pollution, noise or any other nuisance more so than existing conditions. There presumably will be less not more dust, noise, etc. since the auto repair aspect of the facility will be removed from the existing facility and see no reason to expect an increase in any adverse ambient conditions. As for precautions, there are "turn off engine" signs at the fuel canopies posted for safety and unless you believe that you can socially engineer public behavior through architecture, in this case, an interior tenant improvement, the public will conduct themselves as they normally would especially in using this building type and use.

The proposed project will not contribute to the deterioration of the neighborhood or be in conflict with the goals, objectives and policies of the City. The existing facility is aging and is not being used to its full potential. The existing auto repair bays have not been utilized in many years and take up a great deal of room. This project proposes a much needed remodel to this aging facility which will help to revitalize this neighborhood.

The goal of the General Plan is to “enhance the quality of life and reflect a vital, sustainable, attractive and unique city.” By renovating the existing building, including adding a new storefront, rehabilitating the landscaping, fixing up curbing, paving new parking spaces and cleaning up the site, our project will help to enhance the quality of the area. Currently, the area surrounding our site is a mesh of older commercial and industrial uses which give the area an industrial feel even though there is a good amount of residential use in the area. An upscale convenience market will help to bring a

residential feel to the area and may help to inspire similar development raising the quality of life in the area.

The proposed project will be compatible with the existing surrounding structures. Because this project is a remodel/building addition, this condition is based on the current suitability of the building to its surroundings. A majority of the development along Broadway Road is commercial which is why the facility in question is compatible. The neighboring property to this site is an apartment complex. The remodeled facility will provide these residents with convenient shopping opportunities within walking distance. Across Broadway to the south are two banks and a few restaurants which are all commercial uses. Across Priest to the west is a large hotel facility, commercial offices and a Circle K. All of these uses are also considered commercial uses which are compatible with the proposed remodel.

The proposed project will not result in any disruptive behavior which may create a nuisance to the surrounding area or general public. The proposed project will only sell fuel and conveniences, including beer and wine and no liquor, which should not result in disruptive behavior or any nuisances. A security plan will be coordinated with the Tempe Police Dept. in order to make sure of this. 8'-0" high walls and fencing, site lighting, security cameras as well as the back of the store being enclosed are a few of the steps that will be taken as part of the security plan. This security plan will help to deter loitering or vandalism which will also help to prevent disruptive behavior or any nuisances.

We appreciate your consideration for our project and the use permit request.

Manuel Aguirre, AIA, Principal

GBMA Architecture LLC
4700 E. Thomas Rd. Suite 103
Phoenix, Az. 85018
602-279-3061 x17 direct line
602-279-3804 fax



gbma architecture
A LIMITED LIABILITY COMPANY

THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION 21, TOWNSHIP 1 NORTH, RANGE 44 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THENCE NORTH (ASSUMED BEARING) ALONG THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION, A DISTANCE OF 250.00 FEET;


THENCE ALONG THE BOUNDARY OF SAID HUMBLE OIL & REFINING COMPANY LAND, SOUTH 89 DEGREES 26 MINUTES 00 SECONDS EAST 195.00 FEET TO THE NORTHEAST CORNER THEREOF;

THENCE ALONG THE BOUNDARY OF SAID CITY OF TEMPE LAND, NORTH 89 DEGREES 26 MINUTES 00 SECONDS WEST, (RECORD NORTH 89 DEGREES 21 MINUTES 00 SECONDS, WEST) 165.00 FEET;

THENCE CONTINUING ALONG SAID BOUNDARY NORTH, A DISTANCE OF 165.00 FEET TO THE TRUE POINT OF BEGINNING.



SCALE: 1"=20'-0"



- ① EXISTING DRIVEWAYS REMAIN—MODIFY CURBING AS REQUIRED W/ C.I.P. CURB, TYP.
- ② EXISTING C.I.P. CONC. CURB
- ③ EXISTING I.D./ PRICE SIGN TO REMAIN

- 7) EXISTING DUMPSTER ENCLOSURE- TO REMAIN - DOORS TO BE REMOVED- SEE CITY OF TEMPE DETAIL

- ① STRIPED 9'x18' PARKING STALL, TYP.

- ② NOT USED

- ④ NEW 4" MIN. CONC. SIDEWALK W/ 3/8" MINUS WASHED AGGREGATE FINISH, HORIZ & VERTICAL SURFACES

- (6) EXISTING FUJI TANK PAD- CONC. COVER- TO REMAIN

- NEW ENTRY

- EXISTING CONCRETE SLAB- TO REMAIN

- NEW 4'-0" HIGH CONCRETE FILLED 6" Ø BOLLARD. TYP. @ EACH ISLAND

- ②④ LINE OF CANOPY ABOVE

- EXISTING LANDSCAPING REMAINS

- NEW PAVING TO MATCH EXISTING

- ACCESSIBLE STRIPED PATH

- ③ EXISTING PAVING REMAINS

- ③4 EXISTING $\frac{3}{4}$ " WATER M

- 36 NEW 8'-0" HIGH WROUGHT IRON FENCE WITH 4'-0" WIDE GATE

- 38) BUILDING MOUNTED SITE LIGHTING— TYP.

70% CONTRAST IN PERCENT IS DETERMINED BY:

NOTE: SITE PLAN IS FOR REPRESENTATIONAL PURPOSES. REFER TO ALTA SURVEY FOR ALL EXISTING CONDITIONS. THE GENERAL CONTRACTOR MUST REFER TO THE GEOTECHNICAL SOILS REPORT FOR ALL BUILDING FOUNDATION AND PAVEMENT ENGINEERED DESIGN SPECIFICATIONS

NOTE: ONSITE FIRE SUPPRESSION SYSTEM CONNECTION TO BE ISOLATABLE FROM SUPPORTING FH(S).

2006	IBC
2003	IFC
2006	IMC
2006	IPC
2005	NEC

DATE: ----	DRAWN: --
JOB. NO. ---	CHECKED: MA

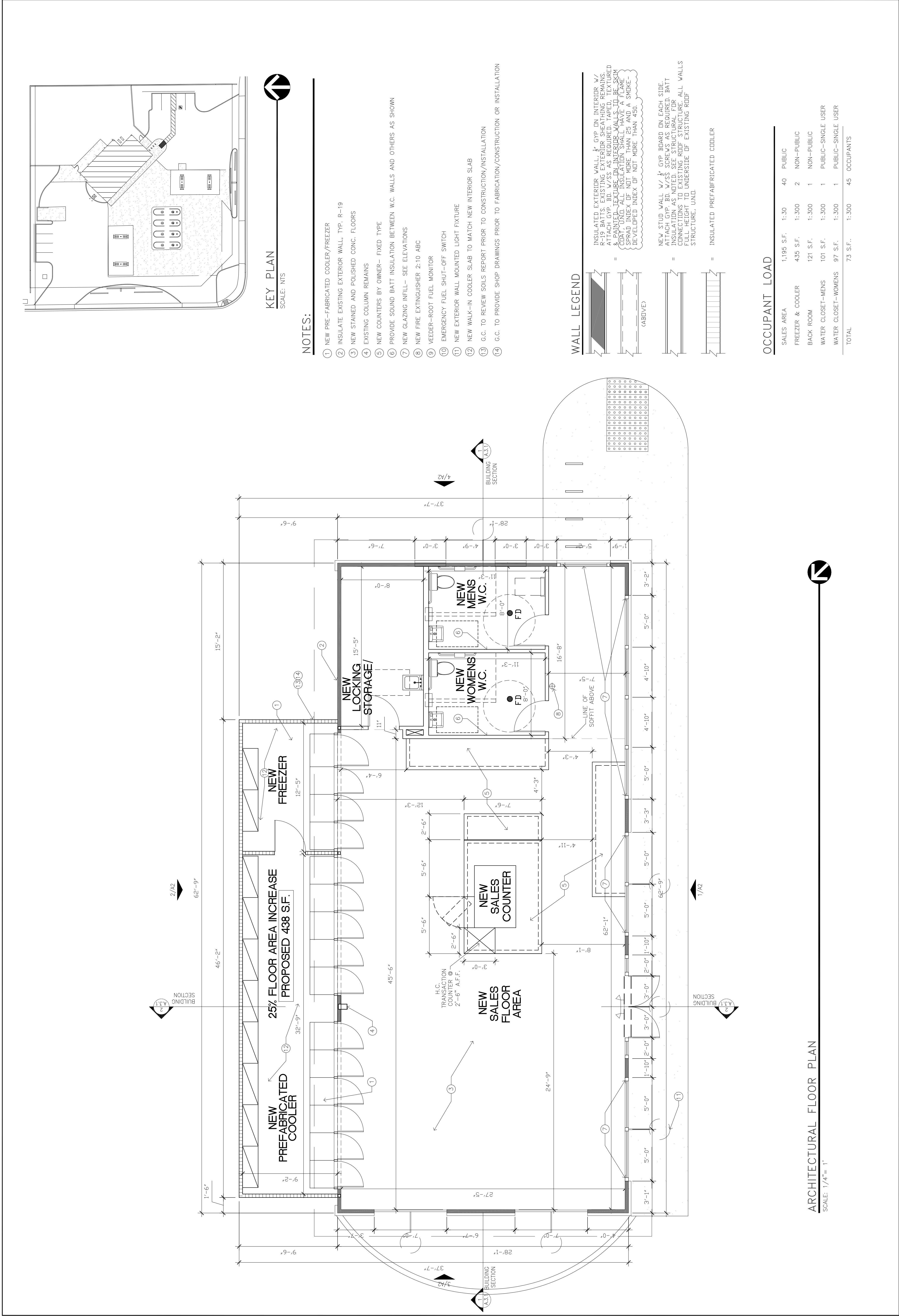
SHEET NO.

SP-1

DATE	REVISIONS	DEVELOPMENT REVIEW COMMENTS	7/07	7/07	SECOND DEV. REV. COMMENTS

SHEET TITLE: ARCHITECTURAL SITE PLAN SHOWING 25% ADDITION TO EXISTING MUKL ENTERPRISES, LLC
A FRANCHISE OF CARL KARCHER ENTERPRISES, INC.
5210 S. PRIEST DR.
GUADALUPE, AZ 85283
WWW.STARBURGERS.COM

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DATE	REVISIONS
7/07	DEVELOPMENT REVIEW COMMENTS
7/07	SECOND DEV. REV. COMMENTS

Bill's Ghost

AND SPIRITS

1344 W. BROADWAY
TEMPE, AZ 85281
Contact: NEISHA JENSEN
Office: (480) 736-2461 Fax: (480) 214-2519
NEISHA@LEVECKE.CO.COM

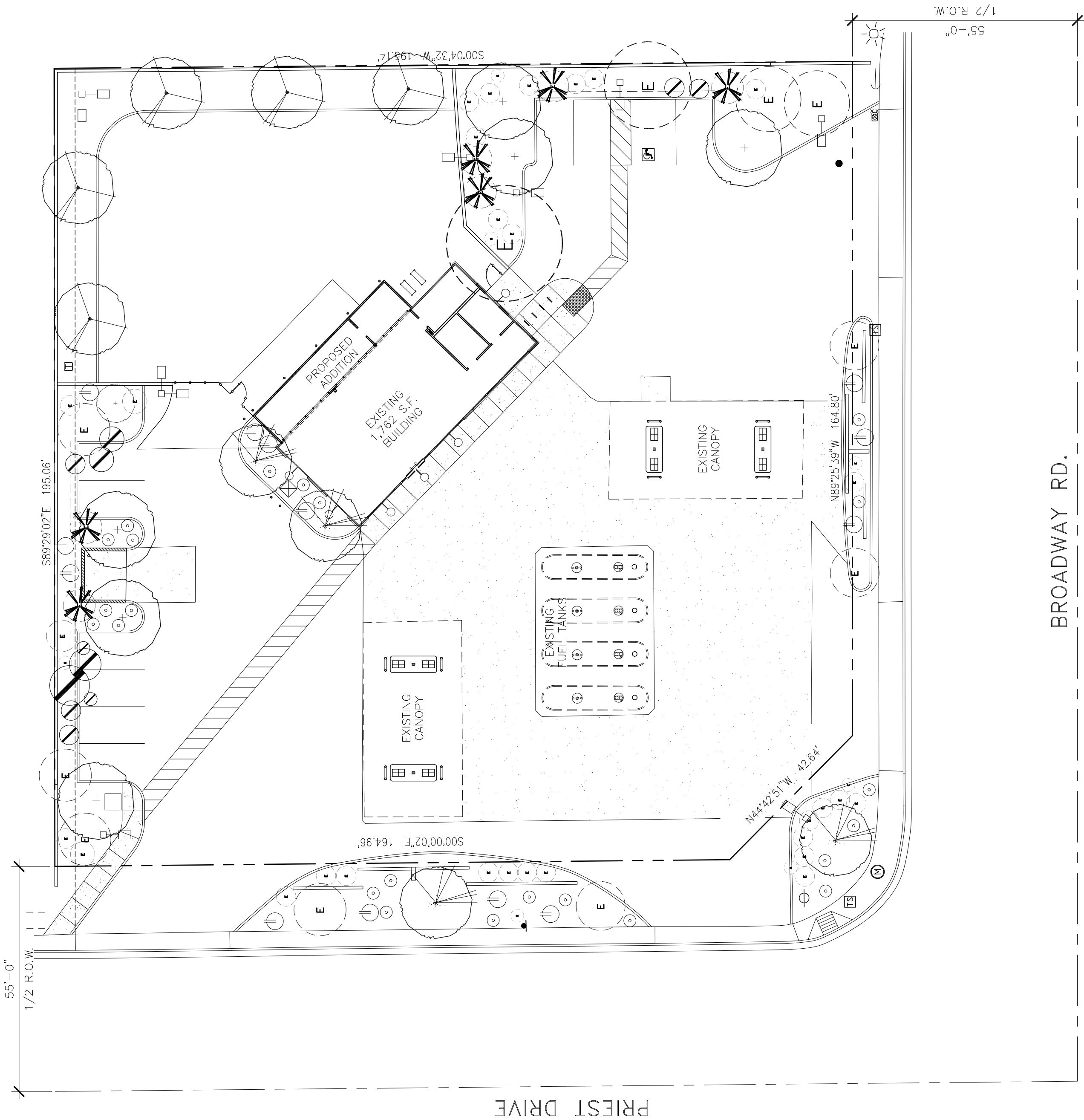
ARCHITECTURAL FLOOR PLAN

MJKL ENTERPRISES, LLC

A FRANCHISE OF CARL KARCHER
ENTERPRISES, INC.
5210 S. PRIEST DR.
GUADALUPE, AZ 85283
WWW.STARBURGERS.COM

SHEET TITLE:	ARCHITECTURAL FLOOR PLAN
DRAWN:	---
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JOB. NO.	---
MA	---
SHEET NO.	A.1.1

EXISTING LANDSCAPE PLAN
(AS REQUESTED BY THE CITY OF TEMPE PLANNING)



LANDSCAPE NOTES

- Contractor shall verify all site conditions prior to starting work.
- Contractor shall confirm location of all underground utilities prior to any excavation.
- Existing pit backfill for all trees and shrubs shall be as follows:
Two parts excavated soil thoroughly mixed with one part nitrilized wood mulch; Each tree shall receive one pound of gypsum and four ounces of soil sulfur. Each shrub shall receive one-half pound of gypsum and two ounces of soil sulfur.
- All grading to plus or minus 1/10 of one foot by general contractor. Finish grade and fine raking by landscape contractor.
- Landscape architect or his representative reserves the right to refuse any plant material he deems unacceptable.
- All existing dead or dying landscaping shall be replaced per the City of Tempe.

CITY IRRIGATION NOTES

- THE REQUIRED BACKFLOW PREVENTION ASSEMBLY SHALL BE A MANUFACTURER AND MODEL NUMBER DESIGNATED IN THE CURRENT CITY OF TEMPE LIST OF APPROVE BACKFLOW PREVENTION ASSEMBLIES.
- THE BACKFLOW PREVENTION ASSEMBLY SHALL BE TESTED AND APPROVED BY A CERTIFIED TECHNICIAN DESIGNATED IN THE CURRENT CITY OF TEMPE LIST OF APPROVED INSPECTORS PRIOR TO THE REQUEST FOR FINAL INSPECTION.

CITY NOTES

ALL SHRUBS LOCATED IN SIGHT DISTANCE LINE SHALL BE KEPT TRIMMED TO A HEIGHT OF (MAX.) 36". ALL TREE CANOPIES LOCATED IN SIGHT DISTANCE LINE SHALL BE KEPT TRIMMED TO A HEIGHT OF (MIN.) 8' ABOVE FINISH GRADE.

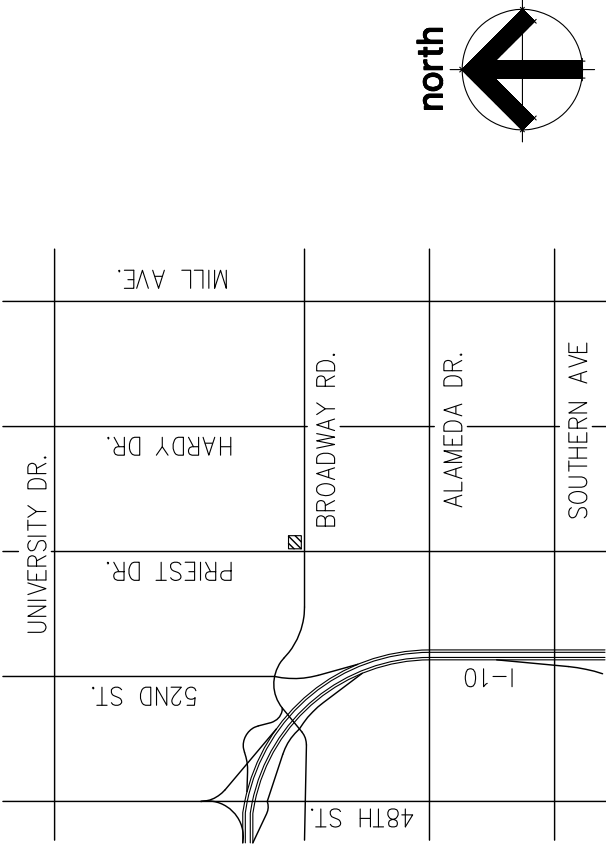
ALL TREE HEIGHTS AND CALIPERS SHALL COMPLY WITH "ARIZONA NURSERY ASSOCIATION SPECIFICATIONS" FOR THAT TYPE AND SIZE OF TREE.

ALL LANDSCAPING SHALL BE MAINTAINED BY DEVELOPER OR ASSOCIATION.

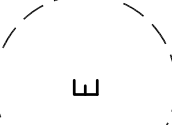



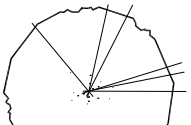
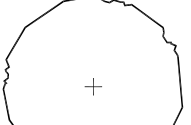

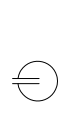

LINE-OF-SIGHT - ALL TREES AND SHRUBS LOCATED IN THE LINE-OF-SIGHT WILL BE MAINTAINED FOR A CLEAR AREA BETWEEN 3'-8'.

NO OVERHEAD POWER LINES ON SITE.

VICINITY MAP



LANDSCAPE LEGEND

SYMBOL	BOTANICAL/COMMON NAME	SIZE	REMARKS	QUANTITY
	Existing Tree (Equivalent to 24" Box)		To Remain	12
	Existing Shrub		To Remain	36
	Existing Tree or Shrub		To Remove	11
	Existing Palm Tree		To Remain	5
	Quercus virginiana 'Heritage' 'Heritage' Live Oak	24" BOX		4
	Parkinsonia microphyllum Footill Palo Verde	24" BOX	Multi-trunk	6
	Ulmus parvifolia 'True Green' Evergreen Elm	24" BOX		5
	Ruellia peninsularis Baja Ruellia	5 Gallon		12
	Lantana 'New Gold' 'New Gold' Lantana	1 Gallon		23

gma architecture, llc

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FAX: 602.279.5804

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FOR REFERENCE ONLY

EXISTING LANDSCAPE PLAN

SHEET TITLE:

MJKL ENTERPRISES, LLC

A FRANCHISE OF CARL KARCHER
ENTERPRISES, INC.
5210 S. PRIEST DR.
GUADALUPE, AZ 85283
WWW.STARBURGERS.COM

DATE: ---

JOB. NO. ---

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BIL'S GHOST

AND SPIRITS

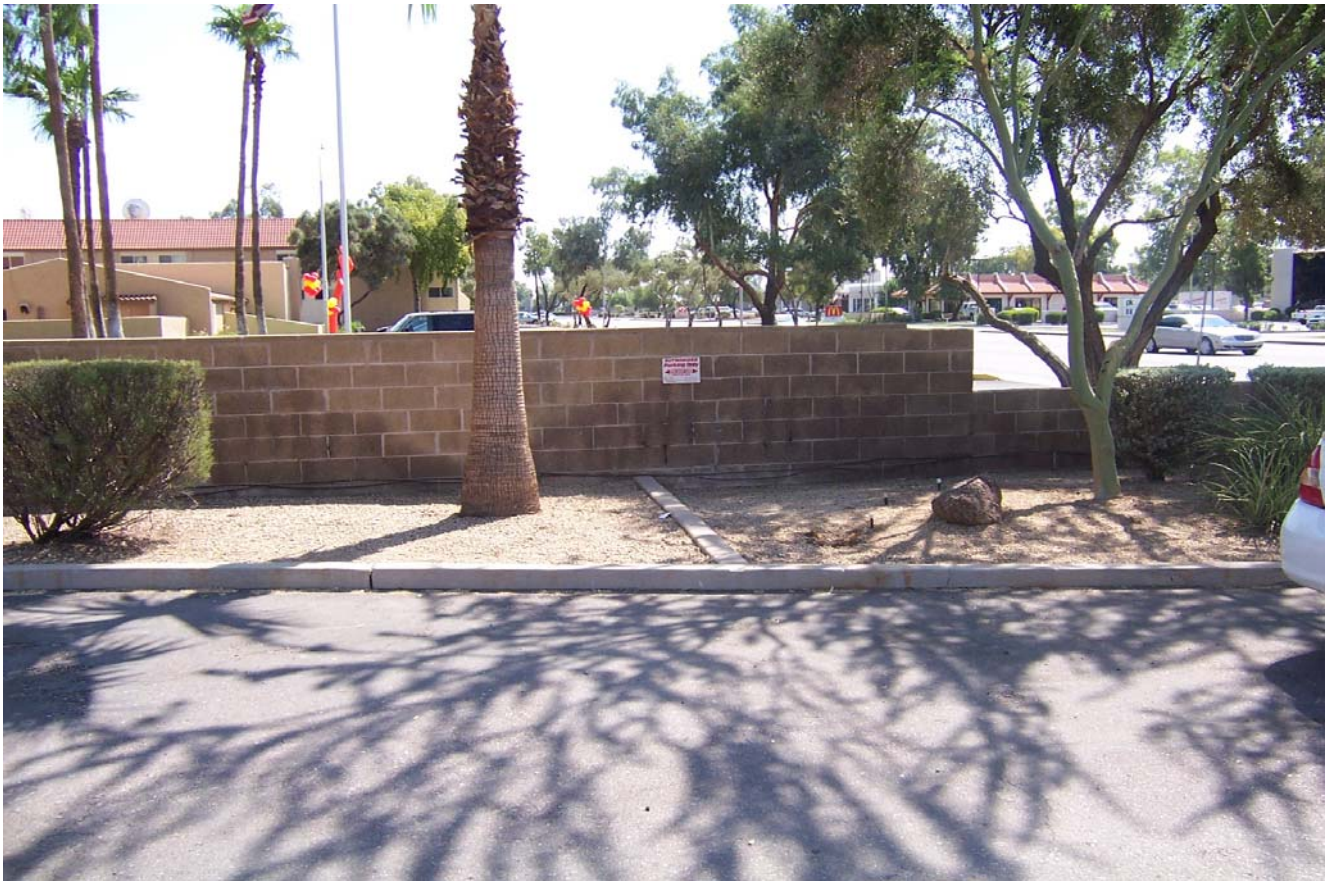
1344 W. BROADWAY
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Contact: NEISHA JENSEN
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NEISHA@LEVECKECO.COM

REVISIONS

7/07 DEVELOPMENT REVIEW COMMENTS

7/07 SECOND DEV. REV. COMMENTS

ATTACHMENT 10



BILL'S GHOST AND SPIRITS

1344 WEST BROADWAY ROAD

PL070261

PROPERTY : VIEW TO SOUTH WEST



BILL'S GHOST AND SPIRITS

1344 WEST BROADWAY ROAD

PL070261

PROPERTY : VIEW TO SOUTH



BILL'S GHOST AND SPIRITS

1344 WEST BROADWAY ROAD

PL070261

PROPERTY : VIEW TO SOUTH